IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1465 OF 2005

Mr.Fakhruddin Yahyabhai Chinikamwala
and Ors. ..Petitioners

Vs.

Zehrabai Ahmed Ali Chinikamwala
& Anrs. ..Respondents

...

Mr.A.S.Khandeparkar Advocate for Petitioners
Mr.Girish Kulkarni i/b Ms.J.P.Thakkar for
Respondent no.1
Mr.V.B.Konde-Deshmukh A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 26,2005

P.C.

1. Heard the learned advocate for the petitioners, respondents and the learned A.P.P. for the State.

2. The respondent no.1 had preferred an application before the learned Magistrate for return of property i.e. keys of room Nos.2,3 and 4 of Patheria Palace. The keys were seized in C.R.No.733 of 1986 of Pydhonie Police Station. The said application came to be allowed by order dated

22.11.2004. Being aggrieved thereby, the petitioners had preferred revision before the Sessions Court. In the said revision, an application was preferred for amendment to call for the original report and say of the police in Case No.679/RN/1986. The said case pertains to C.R.No.733 of 1986 by Pydhonie Police Station. By order dated 29.4.2005 the amendment application in the said revision came to be rejected. Being aggrieved thereby, this writ petition has been preferred.

3. The learned A.P.P. has stated that the matter being about 20 years old and on account of recent floods, the record is not traceable. The key which has been seized is in respect of property situated at 4th floor, Patheria Palace, 75, Mohammed Ali Road, Mumbai-400003. Both the petitioners and respondents claim that they should be given access to the said property. Some documents in relation to the property have been produced in S.C.Suit No.5544 of 1988 which was disposed of by the City Civil Court, Mumbai on 8.11.2000. Both the parties admit that in order to ascertain in whose

possession the property was when the key came to be seized by the police, it would be necessary for the revisional Court to look into these documents while deciding the revision. Hence, it is directed that record relating to S.C.Suit No. 5544 of 1988 be sent to the Revisional Court. The Revisional Court to take necessary documents into consideration while deciding the revision.

4. With the above directions, this writ petition is disposed of.

[V.K.TAHILRAMANI,J.]